

IN THE UNITED STATE BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|-------------------|---|-------------|
| IN THE MATTER OF: |) | BK 14-40708 |
| |) | |
| CJ FEEDYARD, LLC, |) | Chapter 12 |
| |) | |
| Debtor. |) | |

**MOTION TO SELL PROPERTY OF THE BANKRUPTCY ESTATE FREE AND CLEAR
OF LIENS**

COMES NOW the Debtor by and through the below-signed Debtor's counsel, and moves the Court for an Order to sell certain property of the bankruptcy estate pursuant to 11 U.S.C. 363. In support the Debtor states as follows:

1. The Debtor owns a parcel of real property known as the "Vrbka Farm" which is listed in the Debtor's schedules as parcel 720042987, tax lots D&E in NW 1-4, 3-14-1 (73.91 acres), Polk County, Nebraska.
2. The Debtor has reached an agreement with a party to purchase the Vrbka property.
3. Previously, the Debtor was managed by James Gabel, and while under the management of James Gabel, the Debtor reached an agreement to sell the Vrbka Farm for \$500,000. Subsequently, Mr. Gabel has voluntarily stepped down as manager of the Debtor, and the Debtor now is managed by US Bank, N.A., as Trustee of the Charles L. Gabel Trust ("US Bank"). After becoming manager of the LLC, US Bank renegotiated the terms of the sale of the Vrbka Farm previously.
4. The agreement calls for the Vrbka Farm to be sold for \$550,000, the assessed value of the Vrbka Farm. Taking into account the assessed value of the Vrbka Farm, as well as the fact that the Debtor will avoid the ordinary costs associated with closing and any obligation to pay real estate taxes, \$550,000 is a fair value for the Vrbka

Farm. Under the previous agreement to sell the Vrbka, the former manager received a \$125,000 earnest deposit. The \$125,000 earnest deposit was disbursed by the former manager of the Debtor; this factor was one of the events that led to Mr. Gabel stepping down as manager.

5. The proceeds from the sale of the Vrbka Farm will be used to pay past due amounts due and owing to Farm Credit under the confirmed Plan.
6. Farm Credit Services of America, one of the secured creditors in this case, has a security interest in the Vrbka Farm. Farm Credit Services also has a security interest in several other tracts of land owned by the Debtor and Farm Credit Services is over secured.
7. The buyers of the Vrbka Farm shall enjoy the real estate free and clear of any claim of the Debtor, the Debtor's bankruptcy estate, or the Debtor's creditors.
8. The purchaser of the Vrbka Farm is not related in any way to the Debtor.
9. The purchaser of the Vrbka Farm is not an insider as defined by 11 U.S.C. § 101 (31).
10. The Debtor is a passed through entity and will not owe any taxes as a result of the sale of the Vrbka Farm.
11. Federal Rules of Bankruptcy Procedure 6004 provide for a stay on sale of property until 14 days after the entry of an order by the court, Debtor avers that this is an instance where such stay is not necessary, and where, in fact, such stay could be potentially detrimental to the estate as it leaves the buyer a window in which to cancel its decision to purchase the Vrbka Farm. As such, Debtor requests that the

Court specifically order that there is no stay of sale as per Federal Rules of Bankruptcy Procedure 6004.

12. Debtor asserts that it will incur immediate and irreparable harm if it the Court does not hear Debtor's Motion to Sell Property of the Bankruptcy Estate Free & Clear of Lien as soon as possible, foregoing the ordinary 21-day objection period.

Dated this 8th day of March, 2018.

U.S. Bank, N.A., as Special Administrator
of the Estate of Charles L. Gable, an
Equity Interest Holder,

By: /s/ Zachary W. Lutz-Priefert
Frederick D. Stehlik, #15481
Zachary W. Lutz-Priefert, #25092
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Attorneys for U.S. Bank

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2018, I caused filing of the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system, and further certify that on the same date I mailed by United States Postal Service, postage prepaid, the document to the non-CM/ECF participants listed on the Debtor's mailing matrix attached hereto as Exhibit "A".

/s/ Zachary W. Lutz-Priefert
Zachary W. Lutz-Priefert

13161-1/6DA3051

Label Matrix for local noticing
0867-4
Case 14-40708-TLS
District of Nebraska
Lincoln Office
Fri Jan 19 15:27:12 CST 2018

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US Bankruptcy Court
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Charles L Gabel Revocable Trust
James L Gabel Trustee
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Craig D. Brouillette
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Osceola, NE 68651-4412

Farm Credit Services of America
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Heritage Bank, Conservator for Charles L. Ga
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EXHIBIT

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A

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John Stock
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The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)U.S. Bank, N.A.

(u)Charles L. Gabel

(d)Craig D Brouillette
12835 R Rd
Osceola, NE 68651-4412

End of Label Matrix
Mailable recipients 31
Bypassed recipients 3
Total 34